

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

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JAMES CLEMENTE,

Plaintiff,

**COMPLAINT**

-against-

ARCHDIOCESE OF NEW YORK,

Index No. \_\_\_\_\_

Defendant.

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TO THE SUPREME COURT OF THE STATE OF NEW YORK:

Plaintiff, JAMES CLEMENTE, by and through undersigned counsel, respectfully shows to this Court and alleges as follows:

**Introduction**

This is a revival action brought pursuant to the New York Child Victims Act, CPLR § 214-g. The Plaintiff, when he was a minor, was sexually assaulted in the summer of 1975 by an employee of the Archdiocese of New York, Michael J. O'Hara, a CYO camp director.

**Parties, Jurisdiction and Venue**

1. Plaintiff, JAMES CLEMENTE (hereafter, "Jim"), is a citizen and resident of the State of California.

2. Defendant, Archdiocese of New York (hereafter, the "Archdiocese" or the "Archdiocese of New York"), is a religious institution and organization with principal offices located at 1011 First Ave., New York, NY 10022. The Archdiocese of New York controls all Catholic religious, pastoral and educational functions in the boroughs of Manhattan, Bronx and Staten Island, and in other counties in the greater New York metropolitan area. The Archdiocese

operates and controls approximately 370 parishes, 274 schools and 90 Catholic charities. The Archdiocese is a citizen and resident of the State of New York.

3. This Court has subject matter jurisdiction of this action pursuant to Article VI of the New York Constitution.

4. Personal jurisdiction lies over Defendants Archdiocese and the Church as they are present and domiciled in the State of New York.

5. Venue of this action lies in New York County as one of the Defendants resides in New York County.

### **Sexual Abuse of Plaintiff**

6. In the summer, 1975, Jim attended CYO Camp Hayes located in Godeffroy, New York, owned and operated by the Archdiocese. Michael J. O'Hara was the Director of Camp Hayes and coached basketball that summer.

7. Jim was hired as a junior life guard by Michael J. O'Hara and performed other maintenance duties in the camp, Jim also played on the camp basketball team which was coached by O'Hara. Over the course of the summer O'Hara groomed Jim and treated him as special causing Jim to look up to and become close to O'Hara. O'Hara told Jim that he was the hardest worker in the camp, and therefore wanted Jim to stay with him in the days after the other campers left to help O'Hara close the camp. Jim liked the interest in him shown by O'Hara and the special attention, as O'Hara otherwise ran the camp as a strict disciplinarian whom the campers respected.

8. Once alone with Jim in the camp, O'Hara took Jim to a bar where O'Hara drank alcohol and told Jim had to drive them back to camp. Once back at in the camp, O'Hara initiated an intimate conversation with Jim about sex and masturbation while giving Jim cans of beer. He then gave Jim a pornographic magazine and told him to go into the bathroom to masturbate. He

then gave Jim additional pornographic magazines to view in his bedroom. Shortly thereafter, O'Hara entered Jim's bedroom and sexually assaulted him, including fondling of his genitalia, oral sex and digital anal penetration. The sexual assaults continued the next two mornings and evenings, in which O'Hara also attempted to force his penis in Jim's mouth by shoving it repeatedly against Jim's lips.

9. O'Hara also had peepholes in the boy's showers and bedrooms and he surreptitiously took nude pictures of Jim while in the shower and while changing in his room at the camp.

#### **Notice of Sexual Abuse**

10. Michael J. O'Hara was a sexual predator and serial pedophile with as many as 200 victims over a period of approximately 23 years. Upon information and belief, at all relevant times, Defendants, Archdiocese of New York and its CYO at Camp Hayes, among other Archdiocesan organizations, knew of Michael J. O'Hara's sexual abuse of boys during his career as a teacher, coach and camp director, yet continued to give him unfettered access to boys.

11. As a young man, Michael J. O'Hara volunteered as a Boy Scouts' assistant scoutmaster and then scoutmaster for Troop 115 in Hewlett, New York, and he worked at the Queens Shelter for the Advancement of Youths. In or about 1963, O'Hara became a substitute teacher employed by the Archdiocese of New York in its Catholic schools. In these positions, O'Hara sought access to boys to sexually molest.

12. In or about 1966, a complaint of child sexual abuse was made against Michael J. O'Hara by a Troop 115 boy scout. Troop 115 met at and was associated with St. Thomas the Apostle Catholic Church in West Hempstead, New York ("St. Thomas"). The complaint of child sexual abuse was reported to the National Council of the Boy Scouts of America. A letter from a

St. Thomas official to a local Boy Scouts' official expressed grave concern over the allegation against O'Hara, requesting that the Boy Scouts take action to "protect our youth," noting that "[t]his incident happened once, and will certainly happen again unless this man [O'Hara] is taken out of his scouting capacity. Who knows how many times this [child sexual abuse] has happened before and how many youngsters, ....have been badly influenced by [O'Hara]." The Boy Scouts in response asked O'Hara to resign from his position as scoutmaster. A subsequent letter between Boy Scouts' officials refers to a meeting with a Long Island CYO official and the St. Thomas pastor in which Michael J. O'Hara's activities as a Boy Scouts' leader and a teacher in the Catholic schools were discussed and the need to keep him away from children acknowledged. The letter states that Michael J. O'Hara "happens to be a teacher in the [Archdiocese} Catholic schools and he will be up before their Board of Education this week and a determination made by the Catholic Church."

13. At all relevant times, the Archdiocese of New York and the Church thus knew or should have known that Michael J. O'Hara was black listed by the Boy Scouts because of a credible complaint of child sexual abuse. Despite the Archdiocese's Board of Education meeting to discuss Michael J. O'Hara's future as an educator in the Archdiocese's Catholic school system, Michael J. O'Hara's career as a parochial school teacher continued unabated, and he received assignments in Catholic schools within the Archdiocese of New York for years thereafter.

14. In the school year of 1975 – 76, Jim attended John S. Burke Catholic High School in Goshen, New York. There, Jim disclosed O'Hara's sexual assaults to Father Frank Stinner, a guidance counselor at the School, in attempt to protect other boys who might attend the camp from O'Hara. Instead of reporting to law enforcement or taking other appropriate action against O'Hara

to protect children, Father Stinner gave Jim penance by telling him to say 10 “Our Fathers” and 10 “Hail Marys,” and further told him to never speak of the sexual abuse again.

15. From approximately 1978 to 1984, Michael J. O’Hara was a teacher and basketball coach at St. Matthew School, where he sexually abused numerous students and members of his basketball team.

16. After St. Matthew, the Archdiocese assigned Michael J. O’Hara as a teacher and basketball coach at Immaculate Conception in the Bronx. Upon information and belief, Michael J. O’Hara sexually abused multiple boys at Immaculate Conception.

17. Jim did not disclose O’Hara’s sexual abuse to anyone after Father Stinner until he was an adult, in or about 1985, when he disclosed the abuse to his brother. Jim’s brother, who also worked as a teenager at Camp Hayes and knew O’Hara, advised him that he once found two large paper bags filled with hundreds of pornographic polaroid photos of O’Hara sexually abusing boys maintained by O’Hara locked in his office closet at the camp. Jim then realized that he was one of many victims of child sexual abuse by O’Hara.

18. Jim encountered O’Hara again at Fordham Law School, where O’Hara was employed in or about 1986. Jim then gathered the strength to report O’Hara’s sexual abuse to the FBI & NYPD Sexual Exploitation of Children task force, which then began an investigation of O’Hara. In the course of the FBI’s investigation, Jim was fitted with a hidden recording device and met with O’Hara in multiple meetings that were recorded. At these meetings, O’Hara admitted sexually abusing numerous boys in his assignments with the Archdiocese of New York, and he shared with Jim his methods for grooming victims, which included introducing them to pornographic materials and masturbation. O’Hara also revealed that he had voyeuristically drilled peepholes in the bathroom and showers at Camp Hayes to watch boys, including Jim.

19. Most of the information provided to Jim by O'Hara concerned acts of child sexual abuse beyond the criminal statute of limitations. Jim was however able to obtain evidence of O'Hara's sexual abuse of two boys attending Immaculate Conception within the criminal statute of limitations. As a result, O'Hara was arrested and convicted in 1987 of the use of the sexual performance of a child, and sentenced to jail time and probation.

20. At all relevant times, the Archdiocese and the Church knew or in the exercise of reasonable care should have known that Michael J. O'Hara had a propensity for the conduct which caused injury to Plaintiff, in particular, that he had a propensity to engage in the sexual abuse of children.

21. At all relevant times, it was reasonably foreseeable to the Archdiocese and the Church that Michael J. O'Hara would commit acts of child sexual abuse or assault on a child.

22. At all relevant times, the Archdiocese and the Church knew or should have known that Michael J. O'Hara was unfit, dangerous, and a threat to the health, safety and welfare of the minors entrusted to his counsel, care and/or protection.

23. With such actual or constructive knowledge, the Archdiocese provided Michael J. O'Hara with unfettered access to Plaintiff and gave the opportunity to commit foreseeable acts of child sexual abuse or assault.

#### **Nature of Conduct Alleged**

24. This action alleges physical, psychological and emotional injuries suffered as a result of conduct which would constitute a sexual offense on a minor as defined in Article 130 of the New York Penal Law, including without limitation, conduct constituting rape (consisting of sexual intercourse) (N.Y. Penal Law §§ 130.25 – 130.35); criminal sexual act (consisting of oral

or anal sexual conduct) (N.Y. Penal Law §§ 130.40 – 130.53), and/or sexual abuse (consisting of sexual contact) (N.Y. Penal Law §§ 130.55 – 130.77).

25. The limitation of liability set forth in CPLR Art. 16 is not applicable to the claim of personal injury alleged herein, by reason of one or more of the exemptions provided in CPLR § 1602, including without limitation, that Defendant acted with reckless disregard for the safety of others, including Plaintiff, or knowingly or intentionally, in concert with Michael J. O'Hara, to retain them in their positions as educators with unfettered access to children.

**COUNT I**  
**NEGLIGENCE**  
(against the Archdiocese)

26. Plaintiff repeats and realleges Paragraphs 1 through 24 above.

27. At all material times, the Archdiocese and Plaintiff were in a special relationship of residential camp–child, in which the Archdiocese undertook custody of Plaintiff and owed Plaintiff a duty of reasonable care.

28. At all material times, the Archdiocese and Michael J. O'Hara were in a special relationship of employer – employee, in which the Archdiocese owed a duty to control the acts and conduct of O'Hara to prevent foreseeable harm.

29. The Archdiocese owed a duty to Plaintiff to use reasonable care to protect the safety, care, well-being and health of the Plaintiff while he was under the care, custody or in the presence of the Archdiocese. The Archdiocese's duties encompassed the hiring, retention and/or supervision of Michael J. O'Hara and otherwise providing a safe environment for Plaintiff.

30. At all material times, the Archdiocese owed Plaintiff as a minor in its residential camp a duty to exercise the level of care that a parent of ordinary prudence would observe under the circumstances.

31. The Archdiocese breached these duties by failing to protect Jim from sexual assaults and lewd and lascivious acts committed by an agent or employee of the Archdiocese.

32. At all relevant times, the Archdiocese created an environment which fostered child sexual abuse against children it had a duty to protect, including Plaintiff.

33. At all relevant times, the Archdiocese had inadequate policies and procedures to protect children it was entrusted to care for and protect, including Plaintiff.

34. As a direct and proximate result of the Archdiocese's negligence, Plaintiff has suffered and continues to suffer severe and permanent psychological, emotional and physical injuries, shame, humiliation and the inability to lead a normal life.

35. The Archdiocese's acts and conduct shows a reckless or willful disregard for the safety and well-being of Plaintiff.

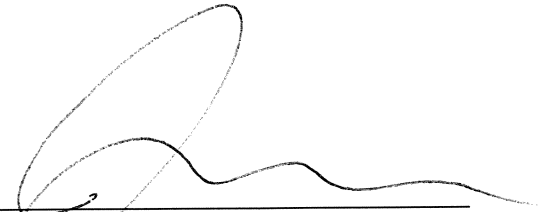
WHEREFORE, Plaintiff demands judgment against the Archdiocese for compensatory damages, punitive damages, costs and such other and further relief as this Court deems proper.

**DEMAND FOR JURY TRIAL**

Plaintiff demands a jury trial in this action.

Dated: New York, New York  
September 30, 2019

By: \_\_\_\_\_

  
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